

08-01-03

DAE



ATTORNEY DOCKET NO: 70398

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#12

Applicant : D'AFRICA et al.  
Serial No : 10/018,591  
Confirm. No : 8366  
Filed : December 7, 2001  
For : IONOPHORETIC DRUG DELIVERY DEVICE  
Art Unit : 3763  
Examiner :  
Dated : July 31, 2003

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

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AUG 13 2003  
TECHNOLOGY CENTER R3700

PETITION TO REISSUE OFFICE ACTION STARTING A NEW STATUTORY  
PERIOD AND WITHDRAW ABANDONMENT OR IN THE ALTERNATIVE TO  
REVIVE ABANDONED APPLICATION UNDER 37 CFR § 1.137 AS BEING

UNAVOIDABLY ABANDONED

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FACTS

The present application apparently has become abandoned for failure to respond to an outstanding Office Action. This fact was brought to Applicant's representative's attention by a telephone call from Examiner Dr. Ghafoorian on or about April 8, 2003. The Examiner contacted Applicant's representative to question whether it was the intention of the Applicant to allow the application to become abandoned. Applicant's representative noted that no Office Action had been received. Applicant's representative questioned the Examiner as to the

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particulars. Examiner Dr. Ghafoorian indicated that an Office Action had been issued several months ago and that the statutory period had expired. Applicant's representative noted that no Office Action had been received.

Applicant's representative and the Examiner discussed this situation further. Applicant's representative noted that a Status Inquiry/Request to update PAIR data had been sent in on November 4, 2002. The reason for sending this was that the U.S. Patent and Trademark Office PAIR System no longer had any reference to the case. The Status Letter requested that the PAIR records be updated for information as to the status. At this time there is still no response to this letter.

Based on the request of Applicant's representative the Examiner reviewed the records and noted that our letter was indicated in the official records but that before this letter was received, Guido Paduano one of the inventors, requested that all correspondence be sent to his address. The Examiner noted that the Patent Office changed the correspondence address and apparently the Official Office Action was sent to this new correspondence address. The Examiner indicated that in view of this change in correspondence address she would be sending the Notice of Abandonment directly to the inventor.

Applicant's representative noted that there was no revocation of Power of Attorney and the Examiner noted that this should be raised by Applicant's attorney.

Applicant's attorney then corresponded with the local representative of the inventors. It was discovered that there was no authorization to change the correspondence address by the other two inventors. It was further noted by all that no change of Power of Attorney had been

filed at all and that certainly the two other inventors had not requested any change of status whatsoever.

It appears that the established facts are as follows:

1. There has been no Revocation of Power of Attorney by any of the inventors.
2. One of the inventor's independently without authorization by the other two inventors requested a change in correspondence address.
3. The Office Action on the merits issued by the Examiner approximately six months before April 8, 2003 was sent only to the one inventor, namely the inventor that asked for the change in correspondence address.
4. No information as to the nature of this Office Action has been supplied to Applicant's representative or the other two inventors.
5. The Examiner contacted Applicant's representative but during the conversation noted that there had been a change in correspondence and that at least in the Patent Office official records Applicant's representative was no longer being corresponded with.
6. A Notice of Abandonment was issued by the U.S. Patent Office but was not sent to Applicant's representative.

#### REQUEST FOR RELIEF

Applicant respectfully requests that the Office Action be resent and redated setting a new statutory period for response. It is requested that this Office Action be sent to Applicant's representative as there has been no Revocation of the Power of Attorney and the change in

correspondence address was improper.

It is requested that the change in correspondence address be rescinded. It is further requested that the application be reinstated without any cost to the Applicants.

In view of the fact that none of the inventors have revoked the Power of Attorney, it is requested that the application proceed based on the original Power of Attorney filed and the original correspondence address.

In support of this Petition, Applicant attaches the Declarations of two of the inventors wherein it is noted that the inventors as a whole have not requested that there be a change in correspondence address and that the change made by the Patent Office was without their authorization. It was further noted that there is no information that any Power of Attorney has been revoked such that it is believed that the original Power of Attorney is still in full force.

The above relief is requested at an early time so as to not jeopardize the rights in the invention of the above-referenced application.

It is further requested that all fees for this Petition be waived and that this Petition be considered grantable even though no response to the last Office Action is being provided. This is requested as Applicant's representative and two of the three inventors have never been able to review the Office Action such that no response can be provided.

Respectfully submitted  
for Applicants,

By: 

John James McGlew  
Registration No. 31,903  
McGLEW AND TUTTLE, P.C.

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JAN 06 2004

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JJM:tf  
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Enclosed: copy of Letter of November 4, 2002  
copy of Filing Receipt with Customer Number Highlighted  
(2) Declarations

DATED: July 31, 2003  
SCARBOROUGH STATION  
SCARBOROUGH, NEW YORK 10510-0827  
(914) 941-5600

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JAN 06 2004

**OFFICE OF PETITIONS**

SHOULD ANY OTHER FEE BE REQUIRED, THE PATENT AND TRADEMARK OFFICE  
IS HEREBY REQUESTED TO CHARGE SUCH FEE TO OUR DEPOSIT ACCOUNT 13-  
0410.

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH  
THE UNITED STATES POSTAL SERVICE AS EXPRESS MAIL IN AN ENVELOPE  
ADDRESSED TO: COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA,  
VA. 22313-1450, NO.: EV323630674US

McGLEW AND TUTTLE, P.C.  
SCARBOROUGH STATION, SCARBOROUGH, NY 10510-0827

BY: *Joel Ann Fox* DATE: July 31, 2003

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : D'AFRICA et al.  
Serial No : 10/018,591  
Confirm. No : 8366  
Filed : December 7, 2001  
For : IONOPHORETIC DRUG DELIVERY DEVICE  
Art Unit : 3763

DECLARATION

I, Antonino D'AFRICA hereby state as follows:

I am one of the named inventors of the above referenced United States Patent application.

I reside at Via Modena S. Sperato II trav. 46, I-89100 Reggio Calabria, ITALY.

I executed a Power Of Attorney and Inventor's Declaration on November 27, 2001. After this time I have not revoked this power and I believe that none of the inventors have revoked the Power Of Attorney.

I have become aware of the fact that Mr. Paduano, one of the named inventors, sent a letter to the United States Patent Office which had the effect of changing the correspondence address from the attorney of record (McGlew and Tuttle, P.C. - customer number 000023872) to his residence in Italy.

All changes made by the United States Patent and Trademark Office were without my authorization. I hereby request and require that this situation be corrected to change the official correspondence address to that which was stated in the Inventor's Declaration and Power Of Attorney form that I executed.

I have become aware of the fact that based on the United States Patent Office sending the correspondence to the other inventor, no action was taken in response to an outstanding Office Action. This situation was only noticed based on a telephone call from Examiner Dr. Ghafoorian and a follow-up status inquiry. As no change of correspondence by all of the inventors was requested and the power of attorney has not been revoked, the change of correspondence address is improper.

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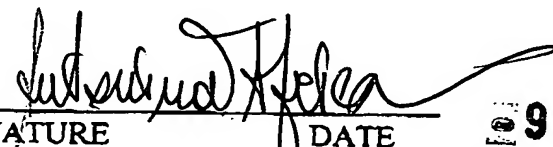
ORA RICEZ. 17. GIU. 22:33

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19149415855

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

  
SIGNATURE

DATE

9 LUG. 2003

ANTONINO D'AFRICA

PRINT NAME

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ORA RICEZ. 17. GIU. 22:33



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Confirm. No : 8366  
Filed : December 7, 2001  
For : IONOPHORETIC DRUG DELIVERY DEVICE  
Art Unit : 3763

DECLARATION

I, Massimo SARTORI hereby state as follows:

I am one of the named inventors of the above referenced United States Patent application.

I reside at Via del Faggio, 22, 22060 Carimate Como, ITALY.

I executed a Power Of Attorney and Inventor's Declaration on November 27, 2001. After this time I have not revoked this power and I believe that none of the inventors have revoked the Power Of Attorney.

I have become aware of the fact that Mr. Paduano, one of the named inventors, sent a letter to the United States Patent Office which had the effect of changing the correspondence address from the attorney of record (McGlew and Tuttle, P.C. - customer number 000023872) to his residence in Italy.

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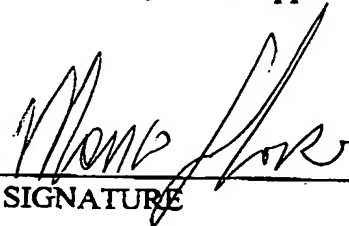
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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.



SIGNATURE

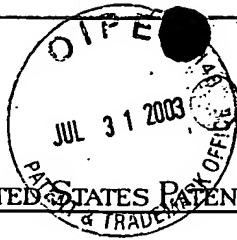
- 9 LUG. 2003  
DATE

MASSIMO SARTORI

PRINT NAME

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ORA RICEZ. 17. GIU. 22:33



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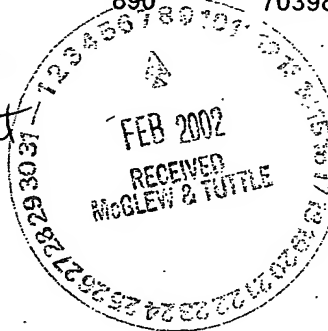
## UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
www.uspto.gov

APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
10/018,591	12/07/2001	3763	890	70398	5	18	2

23872  
MCGLEW & TUTTLE, PC  
SCARBOROUGH STATION  
SCARBOROUGH, NY 10510

*mailed  
to client  
2/7/02  
[Signature]*



CONFIRMATION NO. 8366

## FILING RECEIPT



\*OC000000007392986\*

Date Mailed: 02/01/2002

Receipt is acknowledged of this nonprovisional Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Customer Service Center. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

## Applicant(s)

Antonino D'Africa, Reggio Calabria, ITALY;  
Guido Paduano, Missaglia, ITALY;  
Massimo Sartori, Como, ITALY;

## Domestic Priority data as claimed by applicant

THIS APPLICATION IS A 371 OF PCT/IT00/00227 06/05/2000

## Foreign Applications

ITALY FI99A000141 06/09/1999

Projected Publication Date: Not Applicable, filed prior to November 29,2000

Non-Publication Request: No

Early Publication Request: No

## Title

Ionophoretic drug delivery device

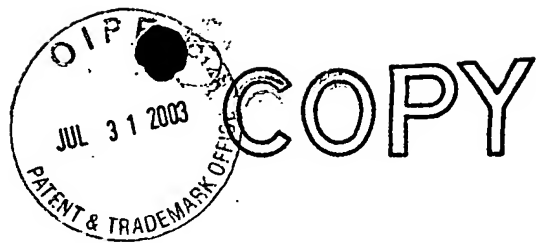
## Preliminary Class

604

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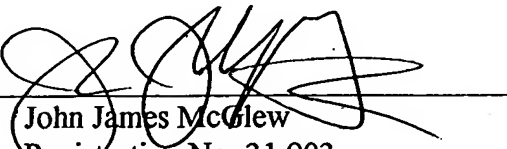
Hon. Commissioner of Patents  
and Trademarks  
Washington, D.C. 20231

LETTER

Applicant respectfully requests that there be an update to the USPTO PAIR data for this case such that this case is included under customer number 000023872.

Respectfully submitted  
for Applicant,

By:

  
John James McGlew  
Registration No. 31,903  
McGLEW AND TUTTLE, P.C.

JJM:tf  
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DATED: November 4, 2002  
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WASHINGTON, D.C. 20231, NO.: EV071196169US

McGLEW AND TUTTLE, P.C.  
SCARBOROUGH STATION, SCARBOROUGH, NY 10510-0827

BY: *Forrest M. Fonte* DATE: November 4, 2002